



MIAMI-DADE COMMISSION ON ETHICS AND PUBLIC TRUST

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MEMORANDUM

TO: Officer Ronald Tookes
Miami-Dade Police Department

FROM: Loressa Felix, Staff Attorney
Commission on Ethics

SUBJECT: INQ 2022-83, Outside employment, Section 2-11.1(k)(2), County Ethics Code

DATE: May 17, 2022

CC: All COE Legal Staff

Thank you for contacting the Miami-Dade Commission on Ethics and Public Trust and requesting our guidance regarding possible ethics issues arising from your position as President for the non-profit, Richmond-Perrine Optimist Club Local Development Corporation, Inc. (Richmond-Perrine Optimist Club).

Facts: You are employed as a police officer for the Miami-Dade Police Department (MDPD). You inquire whether your volunteer activities as President for the Richmond-Perrine Optimist Club, a not-for-profit entity, constitutes outside employment under the Miami-Dade County Conflict of Interest and Code of Ethics Ordinance (“County Ethics Code”).

As County police officer you are assigned to the MDPD South District Neighborhood Resource Team, your duties include patrol of designated areas of the County and are responsible for the coordination of community policing-related activities that ensures the interest, goals, ideas and input of the community are regularly communicated to police command staff, the County, community groups and involved citizens. You work to address quality of life issues, community concerns, school safety, youth activities, and citizen complaints.

The Richmond-Perrine Optimist Club is a Florida not-for-profit corporation. The Richmond-Perrine Optimist Club provides various social services in the communities of Richmond Heights, Perrine, South Miami Heights, Goulds, Cutler Ridge, Naranja, Leisure City, and Homestead including but not limited to counseling and guidance programs, work experience and job opportunities, home repair services to elderly residents, summer camps, Commit Gardens for Senior Citizens, food and clothing distribution, tutoring services, employability skills training classes, oratorical contests, and youth scholarships and sports. The Richmond-Perrine Optimist Club has been serving these communities since 1971. Ms. Christy Berry-Wilson is the current

Executive Director of the Richmond-Perrine Optimist Club and provides the daily administration for the organization.

You advised that you volunteer as the President for Richmond-Perrine Optimist Club. As President, you are responsible only for attending a monthly zoom board meeting and have no day-to-day managerial role with the organization. You are not the founder of the organization and your work with the organization is minimal. You do not spend any extensive amount of time per week on this work, meaning your hours are limited to the monthly zoom board meetings. You do not handle any fundraising or charitable funding solicitations on behalf of your organization, such activities are handled by the Executive Director. You further advised that you do not collect a salary or any other type of monetary compensation for your work.

Issue: Whether the County Ethics Code requires that you annually report as outside employment your work as the President for Richmond-Perrine Optimist Club.

Analysis and Opinion:

The County Ethics Code provides that, “[a]ll full-time County and municipal employees engaged in any outside employment . . . shall file, under oath, an annual report indicating the source of the outside employment . . .” County Ethics Code § 2-11.1(k)(2). Outside employment is considered “any non-County employment or business relationship in which the County employee provides a personal service to the non-County employer that is compensated or customarily compensated.” INQ 22-44 quoting RQO 17-03. Generally, uncompensated outside employment for a traditional nonprofit entity is not considered outside employment. *Id.* However, a County employee who has “significant managerial responsibilities or working time commitments” with a nonprofit entity could be considered to be engaging in outside employment. *Id.*

The Commission on Ethics has opined that serving as the Executive Director, President or Manager of a nonprofit on a compensated or uncompensated basis, when actively involved in the administration of that entity may constitute outside employment. *See* INQ 20-119 (citing RQO 17-03); *see also* INQ 22-44 (a County employee’s volunteer activities as Treasurer for Wish Foundation, Inc., a not-for-profit entity, did not constitute outside employment under the County Ethics Code because she did not found Wish Foundation, Inc.; she is not responsible for Wish Foundation, Inc.’s day-to-day functioning or activities; she does not receive any form of compensation for her service as Treasurer to the organization; and she does not have significant time commitments as part of her service as the organization’s Treasurer.)

By contrast, the Commission on Ethics has held that a County employee who served as the executive director of an after-school tutoring and basketball instruction nonprofit organization was engaged in outside employment because the administrative services that he provided are customarily compensated. *See* INQ 22-44 (citing INQ 13-08). Similarly, a County employee who founded a nonprofit for victims of domestic violence and human trafficking who spent in excess of twenty hours per week administering the day-to-day functioning of the nonprofit was engaged in outside employment. *See* INQ 22-44 and INQ 17-107.

In this instance, you did not found the organization nor are you involved in the organization’s day-to-day administration. The organization has a separate Executive Director that is tasked with

ensuring the overall management and running of the organization. And, although you are President for Richmond-Perrine Optimist Club you do not have any significant time obligations and only attend a monthly board meeting. Therefore, based on the facts presented and discussed above, it does not appear that your service as President for Richmond-Perrine Optimist Club constitutes outside employment because: (a) you did not found the organization; (b) you do not serve as Richmond-Perrine Optimist Club's Executive Director nor do you have any significant managerial role for the organization; (c) you are not responsible for Richmond-Perrine Optimist Club's day-to-day functioning or activities; (d) you do not receive any form of compensation for your service as President to the organization; and, (e) you do not have significant time commitments as part of your service as the organization's President. *See* RQO 17-03; INQ 20-119; INQ 21-100; INQ 17-108; and INQ 22-44.

Opinion:

Based on the facts presented here and discussed above, you are not engaged in outside employment by serving as President for Richmond-Perrine Optimist Club, and you do not have to annually report your activities as outside employment as required by Section 2-11.1(k)(2) of the County Ethics Code.¹

Nevertheless, you must adhere to the following sections of the County Ethics Code:

- Richmond-Perrine Optimist Club may enter into a contract/grant with the County to receive funding, provided that the contract/grant does not interfere with the full and faithful discharge of your County duties. *See* County Ethics Code § 2-11.1(c)(2) and (d). Notably, while it does not appear that fundraising is a part of your current duties for Richmond-Perrine Optimist Club, it is important that you are aware of this provision.
- You may not participate in determining the grant/contract requirements or in awarding a grant/contract. Additionally, none of your County job responsibilities and job descriptions may require you to be involved in the grant/contract in any way including, but not limited to, its enforcement, oversight, administration, amendment, extension, termination, or forbearance. Finally, you may not work in any County department that would enforce, oversee or administer the grant/contract. *See* County Ethics Code § 2-11.1 (c) and (n). Consequently, Richmond-Perrine Optimist Club **may not** enter contracts with MDPD.
- You may not appear before any County board or agency to make a presentation on behalf of or seek any benefit for Richmond-Perrine Optimist Club. *See* County Ethics Code § 2-11.1(m)(1).

¹ Because your service as President for Richmond-Perrine Optimist Club, is not outside employment, you do not have to seek approval from your supervisor on a yearly basis to engage in this activity. *See* Miami-Dade Code § 2-11; *see also* RQO 17-03; INQ 21-100. Likewise, your service as President would not raise any issue concerning the prohibition against conflicting employment under County Ethics Code § 2-11.1(j).

- You may not exploit your County position to secure special privileges or exemptions for yourself and/or Richmond-Perrine Optimist Club. *See County Ethics Code § 2-11.1(g).*
- You may not disclose and/or use any confidential and/or proprietary information acquired because of your County employment to derive a personal benefit, or for the benefit of Richmond-Perrine Optimist Club. *See County Ethics Code § 2-11.1(h).*

In the event that your duties and responsibilities in the Club change, you should seek an ethics opinion. This opinion is limited to the facts as you presented them to the Commission on Ethics and is limited to an interpretation of the County Ethics Code only and is not intended to interpret state laws. Questions regarding state ethics laws should be addressed to the Florida Commission on Ethics.

We appreciate your consulting with the Commission in order to avoid possible prohibited conflicts of interest. If the facts associated with your inquiry change, please contact us for additional guidance.

INQs are informal ethics opinions provided by the legal staff after being reviewed and approved by the Executive Director. INQs deal with opinions previously addressed in public session by the Ethics Commission or within the plain meaning of the County Ethics Code. RQOs are opinions provided by the Miami-Dade Commission on Ethics and Public Trust when the subject matter is of great public importance or where there is insufficient precedent. While these are informal opinions, covered parties that act contrary to the opinion may be referred to the Advocate for preliminary review or investigation and may be subject to a formal Complaint filed with the Commission on Ethics and Public Trust.